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RYAN, MASON & LEWIS, LLP			SINKANTARAKORN, PAWARIS	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAN BOER, WILHELMUS DIEPSTRATEN,
ROBERT JOHN KOPMEINERS, and KAI ROLAND KRIEDTE

Appeal 2011-006712
Application 10/672,657
Technology Center 2400

Before MAHSHID D. SAADAT, CARLA M. KRIVAK, and
ELENI MANTIS MERCADER, Administrative Patent Judges.

KRIVAK, Administrative Patent Judge.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-10 and 18-23. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' claimed invention is a wireless communication device and method that detects collisions resulting from the non-receipt of an acknowledgement message (Spec. 1:6-8).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A first wireless communication device, comprising:

a controller configured to monitor for an acknowledgement (ACK) message transmitted by a second wireless communication device in response to a message transmitted by said first wireless communication device, and

a collision detector that monitors a wireless medium for collisions of said acknowledgement message based on a comparison of an energy level and an energy level threshold, preamble detection, and payload detection.

REFERENCES and ANALYSIS

The Examiner rejected claims 18-23 under 35 U.S.C. § 101.

The Examiner rejected claims 1-10 and 18-23 under 35 U.S.C. § 103(a) based upon the teachings of Wang (US 5,721,733), Curriyan (US 2003/0026283 A1) and Kanterakis (US 6,169,759 B1).

The Examiner finds claims 18-23 are patent ineligible under 35 U.S.C. § 101 "because the recitation of a processor in itself does not tie the process steps to a 'particular' machine" (Ans. 4). The Examiner also finds Curriyan discloses detecting a collision based on a signal-to-noise (SNR) indication signal, thus providing a collision detector that monitors collisions based on an energy level (Ans. 6).

Appellants contend claims 18-23 are patent eligible because these claims require a wireless communication network in addition to the steps of the claim being performed by a processor (App. Br. 3; Reply Br. 2). We agree and find the processor is specifically programmed as asserted by Appellants and supported by the Specification (Reply Br. 2).

Appellants also contend Curriyan does not disclose collisions are detected based on a comparison of an energy level and an energy level threshold as claimed. Rather, Curriyan discloses an output signal indicates an average SNR of a burst transmission. Contrary to the Examiner's assertions, Appellants assert an SNR is a ratio and not a measured energy level, as is known to those skilled in the art. (App. Br. 4-5; Reply Br. 4) We agree. Thus, claims 1-23, which were not argued separately, are not obvious over the combination of Wang, Curriyan, and Kanterakis, as Curriyan and Kanterakis do not cure the deficiencies of Wang.

DECISION

The Examiner's decision rejecting claims 18-23 under 35 U.S.C. §101 and claims 1-23 under 35 U.S.C. § 103 is reversed.

REVERSED

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